IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 16TH MARCH 2007 / 25TH PHALGUNA 1928

WP(C).No. 8909 of 2007(I)

PETITIONER:

M.M.SHERIFF, PARZANA STEELS,
ANGALAMMAN KALAM, PAMPAMPALLAM, PALAKKAD,
NOW RESIDING AT 70/A, M.S.NAGAR, PODANUR,
MAIN ROAD, COIMBATORE- 641 023.

BY ADV. SRI.N.MURALEEDHARAN NAIR
SRI.V.K.SHAMUSUDHEEN

RESPONDENTS:
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1. **ADDITIONAL SALES TAX OFFICER,**
   IINS CIRCLE, PALAKKAD.

2. **DEPUTY COMMISSIONER (APPEALS)**
   COMMERCIAL TAXES, ERNAKULAM.

3. **DISTRICT COLLECTOR, PALAKKAD.**

BY SR.GOVERNMENT PLEADER SRI.MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C).No.8909 of 2007-G

Dated this the 16th day of March, 2007

JUDGMENT

The petitioner challenges Ext.P13 order which is an order passed on the stay applications filed by him along with S.T.A.Nos.46, 47 and 71 of 2007 pending before the second respondent. He has been directed to pay 50% of the disputed balance tax and to furnish security for the remaining amount. According to the petitioner,the notice was never served on him. During the previous years when notice was served and the petitioner was heard, the tax was levied only very marginally and for these years also the petitioner should have been given an opportunity of being heard. The sales were in the nature of .....and therefore not amenable to tax.

2. I heard the learned Government Pleader for the respondents also. The learned Government Pleader, pointed out that the notices were sent and they were returned with the endorsement 'not claimed'. Therefore, the petitioner must be liable for not receiving the notice.

3. Having regard to the contentions of the petitioner and the assessment orders relating to the year 1994-95 which was handed

over to me by the learned counsel for the petitioner at the time of hearing, I feel that the interim order should have been granted on more liberal terms. If the petitioner pays 25% of the balance tax on or before 31-3-2007 and furnishes security for the balance amount within one month from today, further recovery pursuant to Ext.P12 will be kept in abeyance till the disposal of Exts.P6 to P8 appeals. The second respondent may expedite the hearing of those appeals. If the petitioner does not co-operate by seeking unnecessary adjournments, the second respondent can proceed with the hearing of the appeal and pass final orders, without delay.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

MS